

United States District Court

EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

JAY S. COOPER

V.

CITY OF PLANO, ET AL.

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CASE NO. 4:10-CV-689
Judge Mazzant

MEMORANDUM OPINION AND ORDER **DENYING PLAINTIFFS' REQUEST FOR NEW TRIAL** **AND ADDITIONAL FINDINGS**

Pending before the Court is the Plaintiffs' Request for New Trial and Additional Findings (Dkt. #211). Having considered the Plaintiffs' motion, and all relevant pleadings, the Court finds that the motion should be denied.

Plaintiffs filed a motion for new trial on March 4, 2014) (Dkt. #211). On March 24, 2014, Defendants filed a response (Dkt. #212). The case is currently assigned to the undersigned (Dkt. #219).

Pursuant to Fed. R. Civ. P. 59(a), the Court may grant a new trial "for any reason for which a new trial has heretofore been granted in an action at law in federal court." For instance, the Court has discretion to grant a new trial when it is necessary to prevent an injustice, when the jury's verdict is against the manifest weight of the evidence, when the trial was unfair, when prejudicial error occurred, or when the Court finds the damages imposed by the jury were excessive. *Gov't Fin. Servs. One Ltd. P'ship v. Peyton Place, Inc.*, 62 F.3d 767, 774-75 (5th Cir. 1995); *Jones v. Wal-Mart Stores, Inc.*, 870 F.2d 982, 986 (5th Cir. 1989); *Smith v. Transworld Drilling Co.*, 773 F.2d 610, 612-13 (5th Cir. 1985). The motion is not properly considered a motion for "new trial" because

there was no trial. Moreover, even if this were a proper motion, Rule 59(e) provides that “[a] motion to alter or amend a judgment must be filed no later than 28 days after the entry of the judgment.”

Thus, even if a proper motion, the motion was not filed timely.

The Court has previously considered this same relief, although now titled as motion for a new trial, when the Court denied Plaintiffs’ Rule 60(b) motion (Dkt. #208). The Court adopts and incorporates its prior decision issued on February 5, 2014 (Dkt. #208). Plaintiffs present no new arguments or evidence.

It is therefore **ORDERED** that the Plaintiffs’ Request for New Trial and Additional Findings (Dkt. #211) is hereby **DENIED**. All other relief not specifically granted is hereby **DENIED**.

IT IS SO ORDERED.

SIGNED this 13th day of April, 2015.


AMOS L. MAZZANT
UNITED STATES DISTRICT JUDGE